

2SSB 5662 - H AMD 656

By Representative Taylor

ADOPTED 04/15/2011

1 Strike everything after the enacting clause and insert the
2 following:

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4 "NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04
5 RCW to read as follows:

6 (1) The department of general administration must conduct a survey
7 and compile the results into a list of which states provide a bidding
8 preference on public works contracts for their resident contractors.
9 The list must include details on the type of preference, the amount of
10 the preference, and how the preference is applied. The list must be
11 updated periodically as needed. The initial survey must be completed
12 by November 1, 2011, and by December 1, 2011, the department must
13 submit a report to the appropriate committees of the legislature on
14 the results of the survey. The report must include the list and
15 recommendations necessary to implement the intent of this section and
16 section 2 of this act.

17 (2) The department of general administration must distribute the
18 report, along with the requirements of this section and section 2 of
19 this act, to all state and local agencies with the authority to
20 procure public works. The department may adopt rules and procedures
21 to implement the reciprocity requirements in subsection (3) of this
22 section. However, subsection (3) does not take effect until the
23 department of general administration has adopted the rules and
24 procedures for reciprocity under subsection (2) of this section or
25 announced that it will not be issuing rules or procedures pursuant
26 to this section.

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1 (3) In any bidding process for public works in which a bid is
2 received from a nonresident contractor from a state that provides a
3 percentage bidding preference, a comparable percentage disadvantage
4 must be applied to the bid of that nonresident contractor. This
5 subsection does not apply until the department of general
6 administration has adopted the rules and procedures for reciprocity
7 under subsection (2) of this section, or has determined and announced
8 that rules are not necessary for implementation.

9 (4) A nonresident contractor from a state that provides a
10 percentage bid preference means a contractor that:

11 (a) Is from a state that provides a percentage bid preference to
12 its resident contractors bidding on public works contracts; and

13 (b) At the time of bidding on a public works project, does not
14 have a physical office located in Washington.

15 (5) The state of residence for a nonresident contractor is the
16 state in which the contractor was incorporated or, if not a
17 corporation, the state where the contractor's business entity was
18 formed.

19 (6) This section does not apply to public works procured pursuant
20 to RCW 39.04.155, 39.04.280, or any other procurement exempt from
21 competitive bidding.

22
23 NEW SECTION. **Sec. 2.** If any part of this act is found to be in
24 conflict with federal requirements that are a prescribed condition to
25 the allocation of federal funds to the state or local authority, the
26 conflicting part of this act is inoperative solely to the extent of
27 the conflict and with respect to the agencies directly affected, and
28 this finding does not affect the operation of the remainder of this
29 act in its application to the agencies concerned. Rules adopted under
30 this act must meet federal requirements that are a necessary condition
31 to the receipt of federal funds by the state or local authority."

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EFFECT: Strikes the underlying bill and makes the following changes: requires the Department of General Administration (GA) to conduct a survey and compile a list of states that offer a bidding preference to its in-state contractors; requires the list to be updated as necessary; requires a report of the survey, along with recommendations necessary to implement the intent of the act, to be submitted to the appropriate committees of the Legislature by December 1, 2011; requires that a non-resident contractor from a state that provides a percentage preference receive an equitable percentage disadvantage to his or her bid; makes the reciprocity preference take effect after the GA has adopted rules or procedures; and allows the GA to adopt rules and procedures to implement reciprocity provisions, if necessary; and, in the federal severability clause, adds local authorities to the entities that could trigger severability by a conflict with the requirements for allocation of federal funds.

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